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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/777,817	02/05/01	BOUSHY J	19538-05688

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QM22/0730

EXAMINER	
SAGER, M	
ART UNIT	**PAPER NUMBER**
3713	3

DATE MAILED: 07/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/777,817	Boushy
Examiner	**Art Unit**
Sager	3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *three* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *May 31, 2001* .

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-8* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

MARK SAGER
PRIMARY EXAMINER

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2
18) ☐ Interview Summary (PTO-413) Paper No(s). _____
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

Claim Objections

1. Claims 4-5 are objected to because of the following informalities: use of acronym ID without initial spelling out of its meaning may cause confusion in future if definition of cited acronym changes this may correspondingly change scope of claimed invention. Defining acronym at first occurrence precludes such potential change in scope. Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of U. S. Patent No. 5,761,647 and over claims 1-54 of U. S. Patent No. 6,003,013 and over claims 1-4 of U. S. Patent No. 6,183,362. Although the conflicting claims are not identical, they are not patentably distinct from each other because a plurality of casinos inherently includes at least a first and second casino (property) and first and second databases respectively, by definition of plurality meaning more than one. Additionally, it would have been obvious to claim the method or device/apparatus broader in order to obtain the most commercially viable form of invention or in order to obtain the broadest

protection for invention for securing commercial viability. Essentially, the omitted language limited the invention and thus by omitting the language, a broader form of invention is claimed which secures broader protection for commercial viability.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Acres (5655961) or Slater (5613912) each in combination with Remedio (4910677). Acres and Slater each disclose player tracking or rating systems for providing comps to players based upon accumulated points of wagering activity, but each is disclosed as used within a single club or house and does not suggest connection between a plurality of clubs or game house in a communication/computer network with each club or house containing a database of player performance data as claimed. Distributed computer networks for sharing user data is well known

in networking or computing arts, and further is known in gaming networks in particular. Remedio discloses a game network which is a distributed computer network for sharing player performance data between remote clubs (1:64-2:25, 67-68; 5:37-6:11; 8:64-10:35, figs. 1-17b). It is noted that any given time in Remedio's network the respective player databases contain a portion of the performance data since data is not transmitted instantaneously as it is generated; further, 'comprising' a 'portion' fails to preclude the entirety. Essentially, prior to Remedio, players using remote [from home club] golf club received greens slip after playing at a remote club which the player would bring to club ranger for input into home club player database in order to maintain a current record of player performance. However, under this system, players occasionally lost their slips and thus their performance data was not current due to not reflecting the lost greens slip play data and this discouraged remote play with affiliated or other clubs. With the advent of Remedio, a players performance data was shared between remote clubs through a central computer at user requests to preclude players losing their greens slip thereby improving currency of player performance data and the distributed system increases patronage of affiliated or connected clubs thereby since the performance data is maintained without concern for losing performance data and due to increased variety of clubs from which to play (i.e. customers prefer variety). For reasons parallel to golfs inclusion of a connected network to maintain currency of player performance and to increase patronage, it would have been obvious to an artisan at the time the invention was made to add a connected network of a plurality of clubs each having a player database for performance data sharing as suggested by Remedio to Slater's or Acres player tracking or rating

system in order to improve currency of player performance and to increase the variety of clubs from which a player may play which increases patronage at affiliated or connected clubs.

Alternatively, Remedio discloses a network of player performance databases each at a respective club or house (figs. 1-17b) which permit transfer of player data upon requests showing structure of a computer network communicatively coupling a plurality of clubs or house properties which tracks performance for a plurality of players/customers with each player/customer being assigned an account showing storing a portion of player or customer accounts in each database and transferring player performance data to another database remote so as to update the other database therefrom; however, Remedio does not disclose the clubs being casinos and the particular performance data being wagering or betting data from which a player's or customer's theoretical win is calculated as a function thereof. Player tracking or ratings have been in existence for at least the last twenty years while player tracking or rating systems utilizing internal recording and calculation thereof from stored play or performance data in computer databases have been known and used for at least the last eight years. Player tracking or ratings are calculated as a function of player betting activity and used by clubs for the clubs to provide complimentary (comps or perks) services to special status players (VIPs, high rollers) in many forms such as free drinks or rooms at hotel or passes/tickets to shows so as to increase or encourage players continued patronage at the particular club. Acres and Slater each teach player performance tracking or rating systems in a 'casino' house or club utilizing a computer network for gathering player or customer performance data from which an associated rating or theoretical win is calculated as a function of the player's performance or betting activity and the player's or

customer's account is stored in club's central computer for utilization by the club/casino to provide comps to identified players/customers. Thus, it would have been obvious to an artisan at the time the invention was made to utilize player performance tracking being player's theoretical win data calculated as a function of player's betting activity in a casino as known or as taught by either Acres or Slater to Remedio's network to increase or encourage players continued patronage at the connected clubs by increasing the variety of clubs from which players may play while maintaining the currency of the player's performance data.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is (703) 308-0785. The examiner can normally be reached on T-F from 0700 to 1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Valencia Martin Wallace, can be reached on (703) 308-4119. The fax phone number for this Group is (703) 305-3580.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

M. Sager
Primary Examiner
July 24, 2001